

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK RICKNER and HEIDI RICKNER,
each individually and a marital community
comprised thereof,

Plaintiffs,

v.

ALLSTATE INSURANCE COMPANY, a
foreign insurance company,

Defendant.

Case No. 3:19-cv-05857-RBL

**JPMORGAN CHASE BANK, N.A.'S
MOTION FOR RECONSIDERATION**

**NOTED FOR CONSIDERATION:
FEBRUARY 28, 2020**

I. INTRODUCTION

Pursuant to Fed. R. Civ. P. 60(b), JPMorgan Chase Bank, N.A. ("JPMC"), third-party subpoena recipient, respectfully requests that the Court reconsider its February 13, 2020 Order Granting Motion to Enforce Subpoena for Loan Records of Chase Bank ("Order") (Dkt. 19), and evaluate the evidence JPMC submitted in its Response to the Motion (Dkt. 20) and the supporting Declaration of John Devlin (Dkt. 22).

II. ISSUE PRESENTED

Issue: Whether the Court should reconsider its February 13, 2020 Order, and deny the Joint Motion to Enforce Subpoena for Loan Records of Chase Bank ("Motion") (Dkt. 10) when

1 the evidence JPMC filed in opposition to the Motion shortly after the Court issued its Order
2 proves that JPMC has already responded to the subject subpoena.

3 **Short Answer:** Yes, because the Court ruled on the subject Motion—which was noted
4 for consideration on February 14, 2020—on February 13, 2020, before JPMC had provided a
5 written confirmation that it had no responsive documents, and had offered to provide a
6 confirming affidavit, which Allstate had rejected.

7 **III. EVIDENCE RELIED UPON**

8 All filings and pleadings herein, including JPMC’s Response to the Motion to Enforce
9 Subpoena, and the Declaration of John S. Devlin in Support of JPMorgan Chase Bank, N.A.’s
10 Response to Motion to Enforce Subpoena, dated February 13, 2020.

11 **IV. FACTS**

12 The subject Motion was noted for consideration on February 14, 2020. JPMC submitted
13 evidence on February 13, 2020, before the February 14, 2020 noting date, but shortly after the
14 Court ruled on the motion. JPMC’s counsel filed its response on February 13, 2020, after
15 attempting to resolve the matter with Allstate’s counsel. Pursuant to Fed. R. Civ. P. 60(b)(6), the
16 requested relief is justified because JPMC’s counsel attempted to resolve this matter before
17 taking up the Court’s time with the dispute in light of the February 14, 2020 hearing date for the
18 Motion.

19 The facts JPMC submitted in opposition to the Motion on February 13, 2020 show that
20 JPMC responded to the subject subpoena. JPMC received the subject subpoena on December
21 13, 2019, and its subpoena department conducted a search for responsive records. *See*
22 Declaration of John S. Devlin in Support of JPMorgan Chase Bank, N.A.’s Response to Motion
23 to Enforce Subpoena, dated February 13, 2020 (“Devlin Decl.”), at ¶ 3. On or about December
24 18, 2019, JPMC sent a letter of no documentation to Allstate’s counsel in response to the subject

1 subpoena. *Id.*, ¶ 4, Ex. A.

2 JPMC received the instant motion to enforce the subpoena on January 30, 2020, and on
3 February 3, 2020, JPMC's subpoena department emailed Allstate's counsel a copy of the no
4 records letter. *Id.*, ¶ 5. Allstate's counsel responded with correspondence, dated February 4,
5 2020, to JPMC stating that JPMC's response was insufficient. *Id.*, ¶ 6, Ex. B.

6 On February 5, 2020, JPMC's in-house counsel called Allstate's counsel and spoke with
7 her about the possibility of a no records affidavit. *Id.*, ¶ 7. On or about February 6, 2020, JPMC's
8 in-house counsel emailed a proposed no records affidavit to Allstate's counsel. *Id.*, Ex. C. On
9 February 10, 2020, Allstate's counsel communicated Allstate's refusal to withdraw the motion
10 based upon the proposed no records affidavit. *Id.*, at ¶ 8.

11 V. ARGUMENT

12 Upon his engagement to represent JPMC in this matter on February 11, 2020, counsel for
13 JPMC attempted to resolve this dispute with Allstate's counsel. Allstate's counsel rejected a
14 request to re-note this motion for that purpose. *See* Devlin Decl. ¶ 2. The Motion was noted for
15 Consideration on February 14, 2020. On February 13, 2020, the Court granted the Motion shortly
16 before JPMC filed its response on the same day – thus, the Court did not have the opportunity to
17 review the evidence JPMC submitted proving that it had already responded to the subpoena –
18 contrary to Allstate's assertion that it had not. Under Fed. R. Civ. P. 60(b)(1), the Court's ruling
19 was a mistake because it did not have all of the relevant facts. JPMC submitted such evidence
20 on February 13, 2020, before the February 14, 2020 noting date, but shortly after the Court ruled
21 on the motion. JPMC's counsel filed its response on February 13, 2020, after attempting to
22 resolve the matter with Allstate's counsel. Pursuant to Fed. R. Civ. P. 60(b)(6), the requested
23 relief is justified because JPMC's counsel attempted to resolve this matter before taking up the
24 Court's time with the dispute in light of the February 14, 2020 hearing date for the Motion.

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VI. CONCLUSION

For all of these reasons, the Court should reconsider its February 13, 2020 Order and deny the parties' Joint Stipulated Motion to Enforce Subpoena for Loan Records of Chase Bank.

DATED: February 18, 2020

LANE POWELL PC

By: s/ John S. Devlin

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CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I caused the foregoing document to be presented to the Clerk of the Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of the Court will send e-mail notification of such filing to all attorneys and parties of record.

I affirm under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my personal knowledge.

SIGNED February 18, 2020, at Seattle, Washington.

s/ Peter Elton

Peter Elton

Legal Assistant